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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,330	07/10/2003	David Richard Amick	A01396	2827
21898	7590	06/13/2005	EXAMINER	
ROHM AND HAAS COMPANY PATENT DEPARTMENT 100 INDEPENDENCE MALL WEST PHILADELPHIA, PA 19106-2399			SASTRI, SATYA B	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,330

Applicant(s)

AMICK ET AL.

Examiner

Satya B. Sastri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's amendment filed on May 2, 2005 has been fully considered with the following results. Claims 1-10 are now pending in the application.

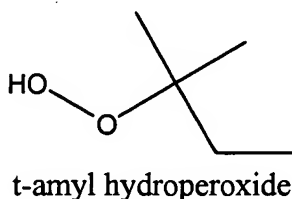
2. In view of the amendment, rejection of *claims 1, 4, 6, 9* under 35 U.S.C. 102(e) as anticipated by Meffert et al. (US 6,552,142 B1), rejection of *claims 2, 3* under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Meffert et al. (US 6,552,142 B1), rejection of *claims 7, 8* under 35 U.S.C. 103(a) as being unpatentable over Meffert et al. (US 6,552,142 B1) and rejection of *claims 1-4* under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Swarup et al. (US 5,703,155) are all withdrawn. However, rejection of *claims 1, 4, 6, 9* under 35 U.S.C. 102(b) as anticipated by Holy et al. (US 5,268,437) is sustained, rejection of *claims 2, 3* under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Holy et al. (US 5,268,437) is sustained, rejection of *claims 7, 8* under 35 U.S.C. 103(a) as being unpatentable over Holy et al. (US 5,268,437) is sustained, rejection of *claims 5, 10* under 35 U.S.C. 103(a) as being unpatentable over Holy et al. (US 5,268,437) in view of Jenkins et al. (US 5,401,802) is sustained. Additionally, rejection of *claims 1, 4, 6, 9* under 35 U.S.C. 102(b) as anticipated by Kirk et al. (US 5,597,509), rejection of *claims 2, 3* under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kirk et al. (US 5,597,509), rejection of *Claims 7, 8* under 35 U.S.C. 103(a) as being unpatentable over Kirk et

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al. (US 5,597,509) and rejection of *Claims 5, 10* under 35 U.S.C. 103(a) as being unpatentable over Kirk et al. (US 5,597,509) in view of Jenkins et al. (US 5,401,802) are all sustained.

Response to Arguments

3. Applicant's attention is drawn to the various initiators disclosed in Holy et al. Suitable free radical initiators disclosed include t-amyl hydroperoxide which may be used in amounts ranging from 0.05 to 25 % by wt. based on the total weight of polymerizable monomer (column 5, line 50-66). The structure of the disclosed species is given below:



The compound includes a t-alkyl with at least 5 carbon atoms as claimed instantly. Additionally, polymerization of unsaturated carboxylic monomers is disclosed in this prior art. When the species is clearly named, the species claim is anticipated no matter how many other species are additionally named.” Ex parte A, 17 USPQ2d 1716 (Bd. Pat. App. & Inter. 1990). “The claims were directed to polycarbonate containing cadmium laurate as an additive. The court upheld the Board's finding that a reference specifically naming cadmium laurate as an additive amongst a list of many suitable salts in polycarbonate resin anticipated the claims. The applicant had argued that cadmium laurate was only disclosed as representative of the salts and was expected to have the same properties as the other salts listed while, as shown in the application, cadmium laurate had unexpected properties. The court held that it did not matter that the salt was

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not disclosed as being preferred, the reference still anticipated the claims and because the claim was anticipated, the unexpected properties were immaterial." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982) (emphasis added).

4. Applicants' arguments are not persuasive along the same grounds as presented above with regard to rejection based on Kirk et al. Kirk et al. teach a polymer product formed from 3-50% by wt. of at least one dicarboxylic acid monomer, 50-97% by weight of at least one monocarboxylic acid and 0-40% by wt. of carboxyl-free unsaturated monomer (abstract). Suitable water-soluble initiators disclosed include tert. amyl hydroperoxide in amounts of 0.5 to 25 wt.%, based on the total amount of monomer added (column 6, lines 50-67). Thus, the presently amended claims read on prior art compositions.

Action Is Final

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Future Correspondence

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satya Sastri whose telephone number is 571-272-1112.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications. The unofficial direct fax phone number to the Examiner's desk is 571-273-1112.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SATYA SASTRI

June 1, 2005

**TATYANA ZALUKAEVA
PRIMARY EXAMINER**

